

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Chris Korff on March 6, 2009.

The application has been amended as follows:

In claim 1, on the third page of the claims where the definition of the variable "V" begins, please replace the conjunction "and" with

-- or --.

Also in claim 1, where the description of V¹ begins on the fourth page of the claims, please replace "dihydric or trihydric" with

-- divalent or trivalent --.

In claim 6, please insert the word

-- or --

Immediately after the comma and before “d”.

In co-pending and related case serial no. 10/533,769, the Examiner had rejected the claims on the basis that the claims seemed to indicate that V simultaneous contained contributions from V¹ and V² in the same residue. This had been deemed problematic because, insofar as it was not clear that V¹ and V² are necessarily separated from one another by a unit Q, their assignment for the purposes of determining whether or not V²/V¹ ≠ 1 would be virtually impossible. These claims, likewise, suffered from the same issue but the Examiner failed to appreciate this fact previously. Applicant was advised during the aforementioned interview that it would be necessary to issue a new Office action that outlines this rejection unless they were amenable to remedying the matter in the present claims in at least approximately the same fashion as it had been in the co-pending case. Applicant indicated that they were amenable to this change.

The second amendment was proposed on the basis that this seemed a more appropriate characterization of V¹ than had been initially provided.

Concerning the amendment to claim 6, this was not discussed between the Examiner and Applicant as the issue was noted only after their discussions had taken place. In the Examiner's estimation, (a) through (d) are intended to be alternative approaches for making the compounds embraced by claim 1 but, without the conjunction “or”, the claims reads as though all four of these steps are necessary for their synthesis.

Terminal Disclaimer

The terminal disclaimer filed on February 2, 2009 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of a patent evolving from application serial no. 10/533,769 has been reviewed and is accepted. The terminal disclaimer has been recorded.

An updated survey of the prior art did not yield a reference more germane than those cited previously. Accordingly, claims 1-11 and 15-17 are allowable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARC S. ZIMMER whose telephone number is (571)272-1096. The examiner can normally be reached on Monday-Friday 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim Seidleck can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

March 6, 2009

/Marc S. Zimmer/
Primary Examiner, Art Unit 1796